

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**STEVEN HOGAN, JUSTIN HOGAN,  
KOBE HOGAN, TRACER NEWSOME  
and DARRAIL McDANIEL,**

*Plaintiffs,*

v.

**MASTEC NORTH AMERICA, INC.,  
PUMPCO, INC. and ROBERTS RANCH  
AND INVESTMENTS, INC.,**

*Defendant.*

**CIVIL ACTION NO. 5:21-CV-1122  
(JURY DEMANDED)**

**Removed from the District Court of  
Bexar County, Texas, 407<sup>th</sup> Judicial  
District, Cause No. 2021-CI-21252**

**NOTICE OF REMOVAL**

Defendants MasTec North America, Inc. (“MasTec”), Pumpco, Inc. (“Pumpco”), and Roberts Ranch and Investments, Inc. (“Roberts Ranch”) (collectively, “Defendants”), hereby remove Cause No. 2020-CI-21252, *Steven Hogan, Justin Hogan, Kobe Hogan, Tracer Newsome and Darrail McDaniel v. MasTec North America, Inc., Pumpco, Inc., and Roberts Ranch and Investments, Inc.*, from the 407th Judicial District Court of Bexar County, Texas pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1441(c), based on federal question jurisdiction. In support of this Notice, Defendants state as follows:

**I. JURISDICTION**

1. This is an employment case by Plaintiffs Steven Hogan, Justin Hogan, Kobe Hogan, Tracer Newsome and Darrail McDaniel (collectively “Plaintiffs”) against the above named Defendants. There are no other parties to the state court action. Defendants Pumpco and Roberts Ranch were served with Plaintiffs’ Original Petition (the “Petition”) on October 15, 2021. Defendant MasTec has not been served but consents to this removal. As required under

28 U.S.C. § 1446(b)(3), this Notice of Removal is filed within thirty days of service of Plaintiffs' Original Petition on Defendants, from which it was first ascertainable that the case had become removable.

2. This Court has original jurisdiction over this action based upon a federal question. Federal question jurisdiction exists when a civil action "aris[es] under the Constitution, laws or treaties of the United States." 28 U.S.C. § 1331. Under the well-pleaded complaint rule, a determination as to whether a federal question exists depends upon the allegations of the plaintiff's pleading. *Medina v. Ramsey-Steel Co., Inc.*, 238 F. 3d 674, 680 (5th Cir. 2001.)

3. In this case, the Original Petition squarely asserts a request for relief under the 42 U.S.C. § 1981, a federal statute. (Pet. ¶ 9) Therefore, federal question jurisdiction exists and this case may be removed to this Court. *Medina*, 238 F. 3d at 680 (affirming the denial of plaintiff's motion to remand where pleading sought age discrimination damages only available under the federal ADEA and not under parallel state law); *Lamb v. laird*, 907 F. Supp. 103, 1035 (S.D. Tex. 1995) ("If and when a claim asserted under Title VII of the Civil Rights Act of 1964, or any other federal antidiscrimination statute, Defendants will enjoy the right to remove the action to federal court").

## **II. VENUE**

4. Venue is proper in this district court under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

## **III. MISCELLANEOUS**

5. Defendants will file a copy of this Notice of Removal with the clerk of the state court where the suit has been pending.

6. Plaintiffs have demanded a jury trial in the state court suit.

7. This Notice of Removal is accompanied by copies of the following:

- a. An Index of matters being filed;
- b. All executed process in the state action (**Exhibit A**);
- c. Pleadings asserting causes of action,, *e.g.*, petitions, counterclaims, cross-actions, third-party actions, interventions and all answers to such pleadings (**Exhibit B**);
- d. All orders signed by the state judge (**Exhibit C**);
- e. The state court's docket sheet (**Exhibit D**); and
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented (**Exhibit E**).

#### IV. **PRAYER**

Defendants request that this Court exercise its jurisdiction over this action through its final disposition, including granting Defendants such legal and equitable relief to which Defendants may show themselves justly entitled.

Dated: November 12, 2021

Respectfully submitted,

**SPENCER FANE LLP**

/s/ Brian W. Zimmerman  
Brian W. Zimmerman  
State Bar. No. 00788746  
Frederick T. Johnson  
State Bar No. 00785429/FBN: 15420  
DeAndrea C. Washington  
State Bar No. 24070814/FBN: 1057772  
3040 Post Oak Blvd., Suite 1300  
Houston, Texas 77056  
Telephone: (713) 552-1234  
Facsimile: (713) 963-0859  
Email: [fjohnson@spencerfane.com](mailto:fjohnson@spencerfane.com)  
Email: [dWASHINGTON@spencerfane.com](mailto:dWASHINGTON@spencerfane.com)

**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing *Defendants'* *Notice of Removal* has been served on counsel of record for Plaintiffs as listed below by CM/ECF system and certified mail, return receipt requested on November 12, 2021.

Dennis L. Richard  
Law Office of Dennis L. Richard  
14255 Blanco Road  
San Antonio, Texas 78216  
Email: [dennislrichardlaw@gmail.com](mailto:dennislrichardlaw@gmail.com)

*Counsel for Plaintiffs*

/s/ Frederick T. Johnson

Frederick T. Johnson

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**INDEX OF MATTERS BEING FILED**

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1. Notice of Removal;
2. Exhibit A – All executed process in the case;
3. Exhibit B – Pleadings asserting cause of action;
4. Exhibit C - All orders signed by the state judge;
5. Exhibit D – Docket Sheet;
6. Exhibit E - A list of all counsel of record, including address, telephone numbers and parties represented.

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**EXHIBIT A**

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(All executed process in the case)

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**EXHIBIT B**

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(Pleadings asserting causes of action, *e.g.*, petitions, counterclaims, cross-actions, third-party actions, interventions and all answers to such pleadings)

1. Plaintiffs' Original Petition
2. Defendants' Original Answer, Defenses, and Affirmative Defenses

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**EXHIBIT C**

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*No orders signed by the state judge as of date of removal.*